

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re

Chapter 11

The Parkway Hospital, Inc.,

Case Nos. 05-14876 (PCB)

Debtor.

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The Parkway Hospital, Inc.,

Adv. Pro. No. 06-01429

Plaintiff,

-against-

Long & Albert,

Defendant.

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APPEARANCES:

DLA PIPER US LLP.
Attorneys for the Debtor
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New York, NY 10020
By: Timothy W. Walsh, Esq.
Jeremy R. Johnson, Esq.

WELTMAN & MOSTKOWITZ, LLP.
Attorneys for Long & Albert
270 Madison Avenue
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By: Michael Moskowitz, Esq.

LAW OFFICES OF ARNOLD E. DIJOSEPH, P.C.
Attorneys for The Estate of Catalanotto
50 Broadway, Suite 1601
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By: Arnold E. DiJoseph, Esq.

MEMORANDUM DECISION DENYING MOTION FOR APPROVAL OF SETTLEMENT

BEATTY, Prudence Carter, U.S.B.J.

The Debtor has presented a stipulation to settle this adversary proceeding. Under the stipulation the sole defendant, the Long & Albert firm, would turn over the funds requested in the complaint to the Debtor. The funds were delivered to the defendant prepetition as the funds to be provided to the estate of Lillian Catalanotto to settle a wrongful death action once the estate obtained the necessary settlement authority from the state court in the estate proceedings. The estate of Lillian Catalanotto has objected to the settlement and claims that it has the right to the funds. The Debtor has asserted that its right to the funds is superior to that of Lillian Catalanotto because no proper escrow was established prior to the filing of the Debtor's Chapter 11 petition.

This Court denies the motion to approve the settlement. The Long & Albert firm has no pecuniary interest in the funds and is merely a stakeholder. The estate of Lillian Catalanotto is a proper party to this adversary proceeding but the Debtor has failed to join it as a defendant as it must. The motion for approval of the settlement will be denied on the grounds that the Debtor has failed to join a necessary party to this adversary proceeding.

It is so ordered.

Date: New York, New York
March 27, 2008

/s/ Prudence Carter Beatty
United States Bankruptcy Judge